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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,354	03/23/2004	Gregg R. Espenshade	061270-0917	3968
22428	7590	09/21/2005	EXAMINER	
FOLEY AND LARDNER SUITE 500 3000 K STREET NW WASHINGTON, DC 20007			PHAN, HAU VAN	
			ART UNIT	PAPER NUMBER
			3618	

DATE MAILED: 09/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/806,354	Applicant(s) ESPENSHADE, GREGG R.	
	Examiner Hau V. Phan	Art Unit 3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 12-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8-11 is/are rejected.
- 7) ☒ Claim(s) 7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/3/04; 8/24/05</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-11, drawn to a stroller, classified in class 280, subclass 652.
- II. Claims 12-20, drawn to a basket, classified in class 294, subclass 152.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed such as stroller having a stroller frame and a basket frame including a basket. The subcombination has separate utility such as basket could be used on cart, golf cart and motorcycle.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

4. During a telephone conversation with Mrs. Mary Michelle Kile on 9/7/2005 a provisional election was made without traverse to prosecute the invention of group I, claims 1-11. Affirmation of this election must be made by applicant in replying to this

Office action. Claims 12-20 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Information Disclosure Statement

5. The information disclosure statement (IDS) submitted on 11/3/2004 and 8/24/2005 have been considered.

Acknowledgment

6. The response to pre-exam formality filed 7/12/2004 has been considered.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. **Claims 1-6 and 8-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Takahashi et al. (4,953,887).**

Takahashi et al. in figures 1 and 9-10, disclose a stroller comprising a stroller frame, a basket frame (81) including a pair of arms mounted to the stroller frame and a rear cross member extending between the pair of arms. Takahashi et al. also disclose a latch mount (as shown in figure 1) coupled to the rear cross member, a basket (82) mounted to pivot relative to the basket frame (a bottom of the basket can be pivot

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relative to the basket frame in folding position) and a latch (16) coupled to the basket to releasably engage the latch mount, thereby allowing the basket to move between a closed position and an open position relative to the basket frame.

Regarding claim 2, Takahashi et al. disclose the basket including an upper rim mounted to pivot relative to the basket frame, and the latch is coupled to the upper rim of the basket.

Regarding claim 3, Takahashi et al. disclose the basket further including an enclosure coupled to the upper rim.

Regarding claim 4, Takahashi et al. disclose the latch including at least one flange configured to be coupled to the upper rim of the basket.

Regarding claim 5, Takahashi et al. disclose the stroller frame including a handle assembly having a pair of push arms, and each arm of the basket frame is pivotally coupled to a respective push arm of the handle assembly.

Regarding claim 6, Takahashi et al. disclose the stroller frame including a pivot extending between each arm of the basket frame and each respective push arm.

Regarding claim 8, Takahashi et al. disclose the latch including a resilient spring member to releasably engage the latch mount.

Regarding claim 9, Takahashi et al. disclose the latch that is generally U-shaped and includes a plate opposite the resilient spring member.

Regarding claim 10, Takahashi et al. disclose the latch mount including a pocket having an upwardly facing shoulder, and the latch includes resilient spring member adapted to releasably engage the shoulder.

Regarding claim 11, Takahashi et al. disclose the latch mount including a channel, and the rear cross member of the basket frame extends through the channel.

Allowable Subject Matter

9. Claim 7 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Nakao et al. disclose a baby carriage serving as shopping cart and Turner discloses a container for stroller.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hau V. Phan whose telephone number is 571-272-6696. The examiner can normally be reached on 7:30AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christ Ellis can be reached on 571-272-6914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hau V Phan
Primary Examiner
Art Unit 3618

Hau Phan
9/9/05